

The Honorable Robert J. Bryan

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

STATE OF WASHINGTON,

CIVIL ACTION NO. 3:17-cv-05806-RJB

Plaintiff,

V.

12 | THE GEO GROUP, INC.,

WASHINGTON'S ANSWER AND AFFIRMATIVE DEFENSES TO GEO'S COUNTERCLAIMS

Defendant

15 | THE GEO GROUP, INC.

Counter-Plaintiff,

V.

18 | STATE OF WASHINGTON,

Counter-Defendant.

The State of Washington (Washington) files this Answer and Affirmative Defenses to The GEO Group, Inc. (GEO)'s counterclaims. Washington's factual averments and legal claims are set forth in the underlying Complaint. To the extent Washington does not specifically admit any allegation, it denies the allegation. Washington provides no answer to GEO's unjust enrichment claim, which the Court dismissed on February 28, 2018. *See Order on State's Mot. to Dismiss or Strike Def.'s Counterclaims and Affirm. Defenses at 14, ECF 44.*

I. JURISDICTION

9.1 This paragraph states a legal conclusion to which no response is required. Washington
denies that this Court has jurisdiction over the parties and subject matter of these proceedings
under the Federal Officer Removal Statute, 28 U.S.C. § 1442.

5 9.2 This paragraph states a legal conclusion to which no response is required. Washington
6 denies that this Court has jurisdiction over the parties and subject matter of these proceedings
7 under 28 U.S.C. § 1331 as this case involves no issues of federal law. Washington also denies
8 that this Court has jurisdiction under 28 U.S.C. § 1332 as Washington is the real party in interest
9 here and is not a citizen of any state for purposes of diversity jurisdiction. Washington lacks
10 knowledge or information sufficient to admit or deny the location of GEO's principal place of
11 business or the amount in controversy on GEO's counterclaims, if any, and on that basis denies
12 those allegations.

13 9.3 This paragraph states a legal conclusion to which no response is required. Washington
14 admits that GEO’s counterclaims are part of the same case or controversy raised in Washington’s
15 complaint, but denies that this Court has supplemental authority under 28 U.S.C.
16 § 1367 or that there are any federal questions at issue in this matter.

II. PARTIES

18 10.1 Washington admits GEO is a for-profit corporation doing business in Washington.
19 Washington also admits that GEO owns and operates the Northwest Detention Center (NWDC).
20 Washington lacks knowledge or information sufficient to admit or deny the location of GEO's
21 principal place of business, and on that basis denies that allegation. Washington denies the
22 remaining allegations in paragraph 10.1.

23 | 10.2 Washington admits the allegations in paragraph 10.2.

24 | 10.3 Washington admits the allegations in paragraph 10.3.

III. CAUSES OF ACTION

Unjust Enrichment – Offset [DISMISSED]

3 11.1 – 11.8 The Court dismissed GEO’s unjust enrichment counterclaim. *See* Order on State’s
4 Mot. to Dismiss or Strike Def’s. Counterclaims and Affirm. Defenses at 14, ECF 44. Washington
5 provides no response to this dismissed claim.

Declaratory Relief – 28 U.S.C. § 2201

7 12.1 Washington admits that GEO contracted with U.S. Immigration and Customs
8 Enforcement (ICE) for the detention of individuals detained while awaiting resolution of
9 immigration proceedings. GEO has contracted with ICE for the provision of these detention
10 services at all times relevant to these proceedings and continuously since 2005. Washington
11 admits that GEO runs a “Voluntary Work Program” at NWDC, and that GEO is required to meet
12 federal detention standards as well as to comply with state and local laws in running that
13 program. Washington denies the remaining allegations in paragraph 12.1.

14 | 12.2 Washington denies the allegations in paragraph 12.2.

15 12.3 Washington admits that GEO employs detainee workers at NWDC and pays them only
16 \$1.00/day or snack food rather than Washington's required minimum wage. Washington denies
17 the remaining allegations in paragraph 12.3.

18 12.4 Washington admits that GEO can pay detainees more than \$1/day and that GEO may
19 seek amendments to its contract with ICE. Washington denies that its contract with ICE limits
20 GEO's obligation or ability to pay detainee workers the minimum wage required by
21 Washington's minimum wage laws and, to the contrary, the contract requires GEO to comply
22 with Washington's minimum wage. Washington denies the remaining allegations in paragraph
23 12.4.

24 | 12.5 Washington denies the allegations in paragraph 12.5.

25 12.6 Washington admits that the “Voluntary Work Program” is the exclusive means by which
26 detainees can earn any money at NWDC to make purchases from the commissary – including

1 stamps, phone calls, food, shampoo, and other necessities. Washington denies the remaining
 2 allegations in paragraph 12.6.

3 12.7 Washington admits one or more of its agencies and officials learned that GEO pays its
 4 detainee workers \$1/day or provides them compensation in the form of snacks. Washington
 5 brought this law enforcement action to require GEO to pay its detainee workers minimum wage.
 6 Washington denies the remaining allegations in paragraph 12.7.

7 12.8 Washington lacks knowledge or information sufficient to admit or deny the allegations
 8 in paragraph 12.8 for the 15 years covered by this litigation and for all agencies and officials
 9 who served Washington during that time period. Washington denies that it has any obligation
 10 to confer with the federal government regarding GEO's payment practices involving detainee-
 11 workers in the privately owned and operated NWDC.

12 12.9 Washington lacks knowledge or information sufficient to admit or deny the allegations
 13 in paragraph 12.9, and on that basis denies them.

14 12.10 Washington lacks knowledge or information sufficient to admit or deny of the allegations
 15 in paragraph 12.10, and on that basis denies them.

16 12.11 Washington admits that the Legislature made a policy decision to exempt residents or
 17 inmates in state, county, or municipal correctional or detention institutions from Washington's
 18 minimum wage laws, but denies the remaining allegations in paragraph 12.11.

19 12.12 Washington denies the allegations in paragraph 12.12.

20 12.13 This paragraph states a legal conclusion to which no response is required. Washington
 21 admits that GEO employs detainee workers and Washington seeks an order requiring: (1) GEO
 22 to pay detainee-workers minimum wage; and (2) disgorge the amount GEO was unjustly
 23 enriched by its failure to adequately pay detainee-workers. Washington denies the remaining
 24 allegations in paragraph 12.13.

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12.14 The Court struck GEO’s request for declaratory relief under FLSA. See Order on State’s Mot. to Dismiss or Strike Def’s. Counterclaims and Affirm. Defenses at 14, ECF 44. Washington provides no substantive response to the stricken portion of GEO’s counterclaim.

12.15 This Court struck GEO’s request for declaratory relief under FLSA. See Order on State’s Mot. to Dismiss or Strike Def’s. Counterclaims and Affirm. Defenses at 14, ECF 44. Washington provides no substantive response to the stricken portion of GEO’s counterclaim.

12.16 This Court struck GEO’s request for declaratory relief under FLSA. See Order on State’s Mot. to Dismiss or Strike Def’s. Counterclaims and Affirm. Defenses at 14, ECF 44. Washington provides no substantive response to the stricken portion of GEO’s counterclaim.

IV. AFFIRMATIVE DEFENSES

Washington asserts the following affirmative defenses to GEO's counterclaim. Washington reserves the right to amend or supplement its affirmative defenses.

1. GEO's remaining counterclaim fails to state a claim for which relief can be granted.
2. GEO has unclean hands and unjustly enriched itself by underpaying detainee-workers for labor necessary to operate the NWDC.
3. There is no right to an offset for "services" GEO provided to detainees.

V. PRAYER FOR RELIEF

WHEREFORE, Washington prays for judgment as follows:

1. That GEO be denied all forms of relief requested in its counterclaim;
2. That GEO's counterclaim be dismissed with prejudice and judgment entered in favor of Washington;
3. That Washington be awarded its costs and attorney's fees to the extent allowable by law;
4. For such other and further relief as the Court deems just and proper.

Dated this 14th day of March, 2018.

Respectfully submitted,

BOB FERGUSON

1 Attorney General of Washington
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/s/ *La Rond Baker*
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was electronically filed with the United States District Court using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

March 14, 2018

/s/ La Rond Baker
LA ROND BAKER